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NO. 80-5861

IN THE SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1980

KENNETH RAY WILLIAMS,

Petitioner

VS.

KENNETH RAY LUCKY,

Respondent

(IN THE INTEREST OF KENNETH RAY WILLIAMS)

PETITION FOR A WRIT OF CERTIORARI TO
THE TEXAS COURT OF CIVIL APPEALS FOR
THE FIFTH SUPREME JUDICIAL DISTRICT OF
TEXAS

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QUESTION PRESENTED

WHETHER SECTION 13.01 OF THE TEXAS FAMILY CODE, WHICH LIMITS THE TIME AN ILLEGITIMATE CHILD CAN BRING A PATERNITY ACTION FOR THE PURPOSE OF SEEKING SUPPORT FROM HIS BIOLOGICAL FATHER TO ONLY THAT PERIOD BEFORE THE CHILD'S FIRST BIRTHDAY, DENIES PETITIONER THE DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAWS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION BECAUSE NO PATERNITY ACTION WAS BROUGHT FOR HIM UNTIL HE WAS FOURTEEN MONTHS OLD?

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NO. MISC.

KENNETH RAY WILLIAMS,

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PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS FOR THE FIFTH SUPREME JUDICIAL DISTRICT OF TEXAS

TO : THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES:

KENNETH RAY WILLIAMS, petitioner herein, respectfully prays that a writ of certiorari issue to review the decision of the Court of Civil Appeals of the Fifth Supreme Judicial District of Texas, filed March 26, 1980, affirming the judgment of the 255TH District Court of Dallas County, Texas. In its opinion, the Court of Civil Appeals specifically upheld, upon direct attack by petitioner, the constitutionality of Section 13.01 of the Texas Family Code. On September 10, 1980, the Texas Supreme Court refused petitioner's application for writ of error (discretionary review) with the notation that the lower court's opinion contained "no reversible error".

OPINIONS BELOW

The opinion of the Texas Court of Civil appeals is reported at 599 S.W. 2d 108 (1980) and is annexed to this petition as appendix "A", infra. No opinion was written by the Supreme Court of Texas; the notation from that court denying petitioner's application for writ of error is annexed hereto as appendix "B", infra. The opinion of the Texas Court of Civil Appeals in Texas Department of Human Resources vs. Chapman, a related case involving an identical issue, is reported at 570 S.W. 2d 46 (1978) and annexed hereto as Appendix "C", infra.

JURISDICTION

Petitioner's application for writ of error (discretionary review) was denied by the Supreme Court of Texas on September 10, 1980. No application has been made for an enlargement of time to file this petition. Jurisdiction of this Court is invoked under 28 U.S.C. §1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Fourteenth Amendment

> Section 1 ***(N) or shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person wothin its jurisdiction the equal protection of the laws.

STATUTE INVOLVED

TEX. FAM. CODE ANN. §13.01(Vernon Supp. 1980)

A suit to establish the parent - child relationship between a child who is not the legitimate child of a man and the child's natural father by proof of paternity must be brought before the child is one year old, or the suit is barred.

STATEMENT OF FACTS AND PROCEEDINGS BELOW

Petitioner Kenneth Ray Williams, an illegitimate child, was born on August 21, 1977, in Dallas, Texas. Pursuant to the provisions of TEX. REV. CIV. STAT. ANN. Art. 695c, §18-B, petitioner's mother assigned his support rights to the Texas Department of Human Resources on July 21, 1978(tr.p.6) On October 25, 1978, the Department of Human Resources filed an "Original Petition to Establish Paternity of a child" in the 255th District Court of Dallas County, Texas.(tr.p.3) The petition asked that Kenneth Ray Lucky be adjudicated the biological father of petitioner and he ordered to provide for his support.

On December 7, 1978, respondent Lucky filed an Original Answer in the cause raising by special exception the defense of the one year statute of limitations applicable to all paternity actions as contained in Section 13.01 of the Texas Family Code (tr.p.8)

On January 31, 1979, the Judge of the 255th District Court appointed guardians ad litem to represent the interests ofKenneth Ray Williams. A petition in intervention on behalf of the child was filed by the guardians ad litem on February 7, 1979 (tr.p.12). An amended plea in intervention was filed on April 3, 1979 (tr.pp.16-21). This petition alleged that Kenneth Ray Lucky was the biological father of Kenneth Ray Williams; that Lucky had made oral statements admitting his paternity of the child; that he had contributed to the support of the child's mother during her pregnancy; that he had paid the expenses for the birth of the child; and that he was able to contribute to the support of the child (tr.p.17). Additionally, the amended petition alleged that Section 13.01 of the Texas Family Code denied Kenneth Ray Williams his rights as guaranteed him by the Equal Protection and Due Process clauses of the Fourteenth Amendment to the United States Constitution (tr.p.19).

By order dated August 1, 1979, the Judge of the 255th District Court dismissed with prejudice both the Original Petition to Establish Paternity and the Intervenor's Plea in Intervention (tr.pp.29-30). In its order, the Court concluded that both causes of action were barred by Section 13.01 of the Texas Family Code; that Section 13.01 did not violate the due process and equal protection clauses of the Fourteenth Amendment; that Section 13.01 is not tolled during the minority of the child; and that there is no non-statutory cause of action for paternity in Texas (tr.pp.29-30).

On appeal by intervenors on behalf of the child, the Court of Civil Appeals affirmed, Williams vs. Lucky, 599 S.W.2d 108(Tex. Civ. App.-Dallas 1980, writ ref'd n.r.e.). The court refused to limit or overturn its previous decision in Texas Department of Human Resources vs. Chapman, 570 S.W.2d 46(Tex. Civ. App.- Dallas 1978, writ ref'd n.r.e.)which had upheld the constitutionality of section 13.01 upon similiar facts. "We are compelled to hold" the court concluded, "that section 13.01 does not deny illegitimate children equal protection or due process of the law", Williams vs. Lucky, supra at 110.

REASONS FOR GRANTING THE WRIT

I.

SECTION 13.01 OF THE TEXAS FAMILY CODE DENIES PETITIONER AND OTHER ILLEGITIMATE CHILDREN THEIR RIGHTS AS GUARANTEED THEM BY THE DUE PROCESS AND EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

"We start from the premise that illegitimate children are not 'nonpersons'. They are humans, alive, and have their being", Levy vs. Louisiana, 391U.S. 68,88 (1968). With that premise and those words, this Court began to examine in a series of cases spanning the next decade, the extent to which states may classify and discriminate on the basis of illegitimacy. In Levy and its companion case, Glona vs. American Guarantee and Liability Insurance Co. , 391U.S. 73 (1968), the equal protection clause of the fourteenth amendment was first invoked to invalidate state restrictions on the right of illegitimate children and their mothers to maintain actions for wrongful death. The constitutional principle underlying these decisions was more fully developed in Weber vs. Aetna Casualty & Surety Co., 406 U.S. 164 (1972), which contains probably the most quoted passage on the subject at issue:

> The status of illegitimacy has expressed through the ages society's condemnation of irresponsible liaisons beyond the bonds of marriage. But visiting this condemnation on the head of an infant is illogical and unjust. Moreover, imposing disabilities on the illegitimate child is contrary to the basic concept of our system that legal burdens should bear some relationship to individual responsibility or wrongdoing. Obviously, no child is responsible for his birth and penalizing the illegitimate child is an ineffectual -- as well as unjust -- way of deterring the parent. 406 U.S. at 175.

In striking down a provision of the Louisiana Workman's compensation law that denied recovery rights to dependant, unacknowledged illegitimate children, the Court concluded that the statutory classification bore no reasonable relationship to any governmental interest or to the recognized purposes of the compensation law. Further, the court clarified the basis of its equal protection analysis by establishing a two-fold inquiry into the statute involved: "What legitimate state interest does the classification promote? What fundamental personal rights might the classification endanger?" 406 U.S. at 173 .

Before 1973, the state of Texas recognized no duty on the part of a natural father to support his illegitimate child, Home of Holy Infancy vs/ Kaska, 397 S.W.2d 208(Tex. 1965) Yet the natural father of a legitimate child had a continuing duty of support. In Gomez vs. Perez, 409 U.S. 535 (1973), this Court held that such a scheme invidiously discriminated against illegitimate children by denying them benefits accorded children generally:

> We therefore hold that once a state posits a judicially enforceable right on behalf of children to needed support from their natural fathers there is no conglitutionally sufficent justification for denying such an essential right to a child simply because its natural father has not married its mother. For a state to do so is " illogical and unjust".

But the Court concluded its opinion with a passage that was specifically relied on by the Texas Court of Appeals in Chapman in upholding the statute at issue here:

> We recognize the lurking problems with respect to proof of paternity. Those problems are not to be lightly brushed aside, but neither can they be made into an impenetrable barrier that works to shield otherwise invidious discrimination.

In Jimenez vs. Weinberger, 417 U.S. 628(1974), the Court held that a part of the statutory scheme of the Social Security Act violated the concept of equal protection because it discriminated against a sub-class of illegitimate children. Recognizing that the rationale for the classification -- the prevention of spurious claims -- is a legitimate governmental interest, the Court found that the two subclasses of illegitimate children stood on " equal footing" and that the potential for spurious claims was the same as to both classes.

In Mathews vs. Lucas, 427 U.S. 495(1976), the Court held that illegitimacy was not a "suspect" classification of so as to require application of the strict scrutiny test in it's equal protection analysis. But the specific level of scrutiny to be applied was more fully articulated in Trimble vs.

Gordon[1], 430 U.S. 762 (1977). "Despite the conclusion that classifications based on illegitimacy fall in a "realm of less strictest scrutiny' Lucas also establishes that the scrutiny is not a toothless one' ... a proposition clearly demonstrated by our previous decisions in the area", 430 U.S. at 767. In striking down on Illinois statute that prohibited illegitimate children from inheriting from their fathers by intestate succession, the Court again turned its attention to the problems of proof in adjudicating paternity:

> The more serious problems of proving paternity might justify a more demanding standard for illegitimate children claiming under their father's estates than that required either for illegitimate children claiming under their mothers' estates or for illegitimate children generally. We think, however, that the Illinois Supreme Court gave inadequate consideration to the relation between §12 and the State's proper objective of assuring accuracy and efficiency in the disposition of property at death. The court failed to consider the possibility of a middle ground between the extremes of complete exclusion and a case-by-case determination of paternity. 430 U.S. 770-771.

Thus central to the Court's determination that the classification was invalid was that it was not attuned to alternative considerations. "Difficulties of proving paternity in some situations do not justify the total statutory disinheritance of illegitimate children whose fathers die intestate", 430 U.S. at 772.

The Court in Trimble then turned its attention to the issue of the "insurmountable barrier" first raised in Gomez vs. Perez, supra.

> Despite its appearance in two of our opinions, the focus of the present or absence of an insurmountable barrier is somewhat of a analytical anomoly. Here, as in Labine, the question is the constitutionality of a state intestate succession law that treats illegitimate children differently from legitimate children. Traditional equal protection analysis asks whether this statutory differentiation on the basis of illegitimacy is justified by the promotion of recognized state objectives.

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1 While not overruling Labine vs. Vincent, 401 U.S. 532 (1971), the Court's opinion in Trimble greatly restricted its "force as precedent" 430 U.S. at 767 n. 12. Yet the factual situations were so similar, four members of the Court found the cases constitutionally indistinguishable, 430 U.S. 777.

If the law cannot be sustained on this analysis, it is not clear how it can be saved by the absence of an insurmountable barrier to inheritance under other and hypothetical circumstances.

Lalli vs. Lalli, 439 U.S. 259 (1978) concerned an equal protection challenge to a New York statute that allowed an illegitimate child to inherit from his intestate father only if a court of competent jurisdiction, during the father's lifetime,[2] had entered an order declaring paternity. Although there was no majority opinion, the statute was upheld: the plurality opinion concluded that the state statute was substantially related to a legitimate governmental interest.

The Texas Court of Civil Appeals fot the Fifth Supreme Judicial District analyzed many of the foregoing cases amd concluded that Section 13.01 of the Texas Family Code did not deny illegitimate children equal protection or due process of the law.[3] The court initiated its equal protection analysis by referring to admonition of Mathews vs. Lucas , supra, that illegitimacy is not a "suspect" classification. But the court then erronously concludes that the "pertinent analytical approach" is the rational basis test -- a conclusion not supported by any of Supreme Court cases heretofore discussed. Rather, based upon the language of the court both in Gordon and Lalli, it seem clear that the standard to be applied in scrutinizing classifications based on illegitimacy is the "substantial realtionship" test, U.S. vs. Clark, _____ U.S._____ (1980).

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2 The statute involved in Lalli actually contained a requirement that the paternity ajudication be made during the pregnancy of the mother or within two years from the birth of the child. However, since the appellant in the case never commenced a paternity action, this court obviated a ruling on the constitutionality of the limitation period by construing the child's right to seek paternity to any time during the lifetime of the father, Lalli vs Lalli:, 439 U.S. at.n.5. Of course, the issue avoided in Lalli is squarely presented in this case.

3 The Appeals Court in the case at bar simply reaffirmed its previous decision in Texas Department of Human Resources vs. Chapman, 570 S.W.2d 46(Tex. Civ. App. 1978), which contains the Constitutional analysis described above.

Secondly, the Court narrowly construed the holding in Gomez to the effect that a state may not "absolutely foreclose" the right of an illegitimate chils to receive support from his natural father. Finding that the one year statute of limitations does not create the fatal "impenetrable barrier", the court concludes that Section 13.01 relates only to remedies and does not destroy fundamental rights. Explaining the objectives underlying the statute, the Court States:

> The purpose of statute of limitations is to compel exercise of rights within a reasonable time, so as to afford the opposing party a fair opportunity to defend while the evidence is readily available.(citations omitted) It may be that the legislature has concluded that the longer the period between birth and suit, the greater the danger of fraud. At the very least, the defendant's problems of proof are substantially increased with the passage of time.

Petitioner submits that Section 13.01 is constitutionally defective for several reasons. First the statute, like the classification involved in Jiminez vs. Weinberger, supra, discriminates against a subclass of illegitimates--those who do not have a paternity action brought in their behalf within one year from their birth. Secondly, again as in Jiminez, the statute is both over-inclusive and under-inclusive. It assumes, without authority, that all suits brought after one year have a greater propensity to be fraudulent than those brought within a year of the child's birth. There is simply no evidence that that proposition is correct. Fradulent suits can easily be brought within the one year period the same as meritorious claims can be barred because not initiated until after the child's first birthday.

Thirdly, the statute is not carefully tuned to alternative considerations, Trimble vs. Gordon, supra. For example, Section 13.02 of the Texas Family Code presents a much less restrictive means of eliminating fradulent or spurious claims--the utilization of blood testing. [4]

4 Such tests, properly conducted, have a success percentage in excluding wrongfully accused men of anywhere from 70% to 95%; see, generally, Lee, Current Status of Paternity Testing, 9 Fam. L.Q. 615, 633 (1975), Joint AMA-ABA Guidelines: Present Status of Serologic Testing in Problems of Disputed Parentage, 10 Fam. L.Q. 247, 257; Shaw and Kass, Illegitimacy, Child Support and Paternity Testing, 13 Houston L. Rev. 41 (1975).

With other evidence of paternity or non-paternity, the probabilities of a just and accurate verdict increase proportionately. Another alternative consideration other than the complete exclusion of all claims brought after the statutory period could be to increase the petitioner's burden of proof.

Petitioner also asserts that the effect of Section 13.01 of the Texas Family Code is to deny him due process of law in that his rights to a paternity determination, the predicate to his right to parental support, is inextricably tied to the willingness of his mother or guardian to assert his rights within the perscribed time. The right of an illegitimate child to assert a claim for parental support is much too fundamental to permit its forfeiture by the mother or guardian's failure to initiate a paternity action within one year of his birth.

II.

STATE COURTS, BASING THEIR DECISIONS ON THE FEDERAL CONSTITUTION AND THE CITED OPINIONS OF THIS COURT, ARE BADLY DIVIDED ON THE QUESTION AT ISSUE IN THIS CASE; A FINAL AND DEFINITIVE RESOLUTION IS NECESSARY

In the last decade, courts in many states across the country have confronted the constitutional issue involved in this case. And although the courts are divided, the decision of the Texas Court of Civil Appeals seems to contravene the recent trend of authority.

The line of cases upholding the constitutionality of statute of limitations in paternity actions begins with In re People in Interest of L.B., 498 P.2d 1157(Colo.1972) cert. denied, 410 U.S. 976 (1973). Here, the Colorada Supreme Court upheld the state's five year statute on the basis that "the difference in the two situations (the legitimate child vis-a-vis the illegitimate child) and the uncertainty of relationship attendant on illegitimacy justify treatment as two different classes for consittutional purposes." However, the decision must be viewed in historical perspective; Weber vs. Aetna Casualty & Surety Co., supra, had come down a mere two months before the Colorado decision was announced.

In Cessna vs. Montgomery, 63 Ill. 2d 71, 344 N.E. 2d 447 (Ill. 1976), the Illinois Supreme Court held that the state's two year limitation upon the institution of paternity actions was valid. In probably what is the most exhaustive opinion in this line of authority, the Court reviewed and briefly explained every Supreme Court decision from Levy to Jiminez and concluded that the statute could withstand both an equal protection and due process challenge:

> Illegitimate children differ fundamentally from legitimate children in that at birth they have no legal relationship to their natural father. In the language of equal protection analysis, legitimate and illegitimate children are not similarly situated classes, ...Plaintiffs imply that any limitation period is inconsistent with due process. We disagree. No Supreme Court case has indicated, and Gomez cannot be read to require, that illegitimates be given an unrestricted right throughout their minority to bring a paternity action. The state has a legitimate interest in preventing the litigation of stale and fraudulent claims. 344 N.E.2d at 452.

The Court was not persuaded by the arguement that the child's mother could have an adverse interest to the child's in making a determination whether or not to bring a paternity action, concluding instead that the mother is ordinarily in the best position to make that decision.

The Iowa two year statute was upheld in Krupke vs. Witkowski, 256 N.W.2d 216 (Iowa, 1977). The Court here relied heavily on (and quoted extensively from) the opinion in Cessna vs. Montgomery, supra. "We agree with the rationale of the Cessna case for it recognizes that until the proof of parentage is proved the putative father has no fixed obligation to support the child." By way of meeting the "alternative consideration" standard of Gordon vs. Trimple, supra, the court further noted that the Iowa statute contained three specific expections to an absolute bar to establishing paternity during the two year period.

Maryland's two year statute was upheld in Thompson vs. Thompson, 404 A.2d 269 (Md. App. 1979) affirming 390 A 2d 1139 (Md. Sp. App. 1978). Here the court emphasized the purpose of the limitation -- the prevention of stale claims - justified any discrimination against legitimates. "After the lapse of a number of years from contact with the mother of an illegitimate child, an accused male might have substaintial difficulty in establishing that he was not the only individual who could have sired the child in question." The court also discussed the trustworthiness of blood tests but expressly took no cognizance of their reliability or the possible effect on the statute in question because no evidence was offered to establish the general acceptance of such tests in the general field in which they are utilized.

A second line of cases never reaches the precise constitutional question at issue here because, for various reasons, the statute of limitations involved does not bar the action by a minor child. Thus in Palmer vs. Mangum, 338 So. 2d 1002 (Miss. 1976) and Huss vs. DeMott, 524 P2d 743 (Kan. 1974), the statutory action (and thus the statutory limitation) was construed to apply only to the mother while the child could bring an action throughout his minority. In Perez vs. Singh, 97 Cal. Rptr. 920 (Ct. App. Cal. 1971), the child's minority tolled the statute. In

Nielsen vs. Hansen, 564 P 2d 1113 (Utah, 1977), the eight year statute was found not to apply to paternity actions. And in Kaur vs. Chawla, 522 P2d 1198 (Ct. App. Wash. 1974), the statutory action was found not to be exclusive of the common law right of the child to sue throughout his minority. "But if the filiation were the exclusive remedy, a prosecuting attorney or a mother could deny an illegitimate child access to the court. Such a denial would violate the child's constitutional rights to due process", 522 P2d at 1201.

The line of cases striking down statutes of limitation in paternity actions begins relatively recently with Stringer vs. Dudoich, 583 P2d 462 (N. Mex. 1978). Relying on Gomez vs. Perez, the court first noted that New Mexico had no time limitation on the right of a legitimate child to obtain support from his father. "If there is no limitation on the right of a legitimate child to seek support from his parent, then there can be no limitation on the same right for an illegitimate child", 583 P2d at 464.

Probably the most exhaustive and detailed opinion on the subject was written by the Supreme Court of Florida in State Dept. of Health vs. West, 378 So. 2d 1220 (Fla. 1979). The court briefly examines every Supreme Court case touching on illegitimacy and concludes that the state's four year limitation period denies illegitimate children the equal protection of the laws.

> The state's objective to avoid stale claims, however, is not valid justification for the discrimination it inflicts on illegitimates since their right to support is a continuing right renewing itself until the child reaches eighteen. An action to determine paternity is not a stale claim when employed as a prerequisite to an illegitimate's obtaining of continuing, recurring support. This right has never become dormant, and for the statute of limitations to act to preclude this right on the basis that it is stale is illogical.

Turning its attention to the purported problems of proof in the absence of a limitation period, the court stated:

> Furthermore, this statute bears at best a tenuous relatinship to the interest it seeks to advance of ensuring the availability of adequate proof of paternity. The arbitrary determination that paternity can only be proved in four years creates an impenetrable

> barrier to an illegitimate child's right to seek support without considering alternatives which deal directly with the problems of proof. Although proof of paternity may become more difficult with the passage of time, this mere possibility cannot be allowed to work an unconstitutional discrimination against illegitimate children, 378 So. 2d at 1229.

The three year North Carolina statute of limitations was recently struck down in County of Lenoir ex rel Codgell vs. Johnson, 264 S.E. 2d 817 (N.C. Ct. App. 1980). The Court found that the statute was not substantially related to the state's interest in preventing stale or fradulent claims. Further, the court questioned the need for statute of limitations in light of advances in blood typing, which have been determined to be approximately 95% accurate in determining a defendant's lack of paternity.

It is ironic tht the division that exists among states in regard to this constitutional issue is no more extreme than the division that now exists within the Texas appellate system. The Fort Worth Court of Civil Appeals has recently ruled that Section 13.01 of the Texas Family Code is unconstitutinal -- a decision that puts it in direct conflict with the Dallas Court of Appeals in this case and in Texas Department of Human Resources vs. Chapman, 570 SW2d 46 (Tex. Civ. App. 1978). The Court in In the Interest of Miller, 605 S.W.2d 332 (Tex. Civ. App. 1980) expressly rejected the reasoning of Chapman[5] and ruled that Section 13.01 violates the equal protection clause of the fourteenth amendment because it applies only to suits for paternity with no corresponding limitation being applicable to suits for maternity. The Fort Worth court also found a violation of due process because it authorized the mother to forfeit the rights of the child.

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[5]The Court in Miller noted in its opinion that the application for writ of error to the Texas Supreme Court in Chapman had been refused with the notation "no reversible error" but did not explain -- perhaps understandably -- that this notation signifies that the Supreme Court approves of the result of the lower appellate court. See, Burchfield vs. Markham, 294 A.W.2d 795 (Tex. 1956).

With the extreme division of judicial authority that now exists on this question, this Court should grant certiorari to finally resolve these conflicts.

III.

THIS CASE ULTIMATELY INVOLVES THE RIGHT OF SUPPORT FOR THOUSANDS OF CHILDREN UNDER THE AGE OF EIGHTEEN

Illegitimate births accounted for an estimated 14.7% and 15.5% of all births in the United States in the years 1976 and 1977 respectively, National Center for Health Statistics of the Department of Helath, Education and Welfare, Monthly Vital Statistics Report, Feb. 5, 1979; id March 29, 1978 at 17. This represents 468,100 and 515,700 total illegitimate births in those two years. The problem of illegitimacy is particularly acute in urban areas. In 1975, over one-half of all births in the District of Columbia were out of wedlock, National Center for Health Statistics of the Department of Health, Education and Welfare, I Vital Statistics of the United States (Natality), 1975, at p.50. In 1973, there were 112,703 illegitimate A.F.D.C. recipients in the State of Texas; this number represented a 775% increase in the number of illegitimates on AFDC since 1961, Wage Garnishment, attachment, and Establishment of Paternity, Senate Committee on Finance, pp.215-216 (U.S. Government Printing Office, 1975). A decision by the Supreme Court in this case would ultimately determine the support rights for thousands of these children, many of whom who are now on welfare or are receiving no support at all. For this reason, petitioner would urge this court to grant certiorari in this cause to determine the rights these children have.

CONCLUSION

For the foregoing reasons, this petition for writ of certiorari should be granted.

This the 8th day of December, 1980.

Respectfully submitted,

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By: Lawrence L. Mealer
LAWRENCE L. MEALER

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

This is to certify that I have on this day served a copy of the attached Petition for a Writ of Certiorari to to attorney for Respondent, Mr. Mike Aranson, 600 Jackson St., Dallas, Texas 75202, by depositing same in the United States Mail, postage prepaid, this 8th day of December, 1980.

Lawrence L. Mealer
LAWRENCE L. MEALER